

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 CHRISTOPHER O. SMITH,

Case No.: 2:20-cv-01108-JAD-DJA

4 Petitioner

**Order Directing Service
and Appointing Counsel**

5 v.

6 JERRY HOWELL, et al.,

[ECF No. 1-2]

7 Respondents
8

9 Petitioner Christopher O. Smith brings this pro se 28 U.S.C. § 2254 petition for writ of
10 habeas corpus to challenge his murder and burglary convictions and has now paid the filing fee.¹
11 He also asks for court-appointed counsel.² Having reviewed the petition under Habeas Rule 4, I
12 direct the Clerk of Court to docket it³ and serve it on respondents. I also grant the motion to
13 appoint counsel.

14 The decision to appoint counsel is generally discretionary,⁴ but counsel must be
15 appointed if the case is so complex that denial of counsel would amount to a denial of due
16 process or the petitioner has such limited education that he is incapable of fairly presenting his
17
18

19 ¹ See ECF Nos. 1-1, 4.

20 ² ECF No. 1-2.

21 ³ Because a petition for federal habeas corpus should include all claims for relief of which
22 petitioner is aware, failure to include such a claim in a petition may result in it being forever
23 barred. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not
included in his petition, he should notify the court of that as soon as possible, preferably by
means of a motion to amend his petition to add the claim.

⁴ *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481 U.S. 1023 (1987);
Bashor v. Risley, 730 F.2d 1228, 1234 (9th Cir. 1984), cert. denied, 469 U.S. 838 (1984).

1 claims.⁵ Smith is serving a lengthy sentence, and it appears that some of the legal issues he
2 wishes to raise related to his jury trial may be complex. To ensure due process, I grant Smith's
3 request to appoint counsel.

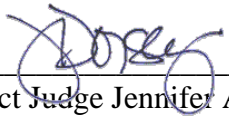
4 IT IS THEREFORE ORDERED that petitioner's motion for appointment of counsel
5 **[ECF No. 1-2] is GRANTED;**

6 IT IS FURTHER ORDERED that **the Federal Public Defender for the District of**
7 **Nevada (FPD) is appointed to represent petitioner.** After counsel has appeared for petitioner
8 in this case, the court will issue a scheduling order, which will, among other things, set a
9 deadline for the filing of an amended petition;

10 IT IS FURTHER ORDERED that **the Clerk of Court is directed to:**

- 11 • FILE and ELECTRONICALLY serve the petition (ECF No. 1-1) on the
12 respondents;
- 13 • ADD Aaron D. Ford, Nevada Attorney General, as counsel for respondents;
- 14 • DETACH AND FILE petitioner's motion for appointment of counsel (ECF No. 1-
15 2);
- 16 • Electronically serve the FPD a copy of this order, together with a copy of the
17 petition for writ of habeas corpus (ECF No. 1-1). The FPD has 30 days from the
18 date of entry of this order to file a notice of appearance or to indicate to the court
19 its inability to represent petitioner in these proceedings.

20 Dated: August 4, 2020

21 
22 U.S. District Judge Jennifer A. Dorsey
23

⁵ See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.3d 948 (8th Cir. 1970).